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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,908	08/16/2001	Steven C. Quay	18072-000810US	1694

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EXAMINER
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BAYAT, BRADLEY B

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



## Office Action Summary

Application No.

09/930,908

Applicant(s)

QUAY ET AL.

Examiner

Bradley Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Status of Claims***

Applicant has amended claims 1-10 and 12 and added new claims 13-19 in the amendment filed on 12 November 2004. Thus, claims 1-19 are pending and presented for examination.

### ***Response to Arguments***

Applicant's arguments filed 12 November 2004 have been fully considered but they are not persuasive.

The applicant contends that the cited reference, DiRienzo fails to teach a searchable term describing a characteristic of the good or service provided for bidding (applicant's response p. 8-9). The applicant cites figure 6 and column 11, lines 50-58 (examiner assumes that "Chen" is a typo and the applicant intended to refer to DiRienzo) in support of the argument that "in no manner does DiRienzo teach or suggest searchable terms describing a characteristic of the images or image reading (response p.9)." Applicant further argues that DiRienzo fails to disclose updating the browser to indicate the measure of time remaining in a bidding cycle (response p. 9). The examiner respectfully disagrees.

DiRienzo discloses multiple search or category criteria that can be utilized by either party in utilizing the RAMIX system. Additional criteria such as medical subspecialty and/or modality can be utilized beyond price and priority to conduct the bidding (column 16, lines 30-45). Moreover, a patient can for instance search a physician or specialist based on biographical information such as medical school attended, publications, affiliations, residency etc. in order to make an informed choice (column 17, lines 4-15). Furthermore, in an alternative embodiment,

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DiRienzo discloses a predetermined time-limit bidding embodiment wherein the physician with the lowest bid at the end of the bidding time is awarded the reading (column 29, line 64-column 30, line 9). DiRienzo discloses that "patients are free to establish other criteria for the successful bidder such as: how fast the reading must be done; the type of subspecialty the diagnostic physician must have etc. It should be noted that the RAMIX system performs the evaluation according to the criteria established by the patient/gatekeeper (column 30, lines 15-60; column 31, lines 5-17).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by DiRienzo, U.S. Patent 6,006,191.**

As per the following claims, DiRienzo discloses:

1. A method of bidding for outsourced pharmaceutical or medical device good or service for a client requesting said goods and services, said method comprising: (a) posting a proprietary template descriptive of said good or service to an interactive online bidding site; (b) accepting

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from a first entity a bid to provide said good or service from a registered provider of said good or service (column 11, lines 50-58; columns 16, 17 and 30).

2. The method according to claim 1 further comprising, in response to a request from a second entity to the server identifying a given good or service up for bid, identifying a current set of bids for said good or service (column 11, line 58-column 12, line 11).

3. The method according to claim 1 where the client can observe live bidding for the project on the internet (column 19, lines 13-43).

4. The method according to claim 1, wherein said provider of a good or service is a contract service organization with expertise in the project under consideration (column 16, lines 30-45; column 22, line 1).

5. The method according to claim 1, wherein said client is a member selected from the group consisting of a developer or manufacturer of a medical device, a developer or manufacturer of a medical procedure, a developer or manufacturer of a diagnostic agent, a developer or manufacturer of a therapeutic agent and combinations thereof (column 7, lines 62-65; column 26, lines 42-50).

6. The method according to claim 1 where access to the web site is by secure means and bidding process is restricted to authorized users only (column 20, lines 26-47)

7. The method according to claim 1 where the identity of the sponsor may be optionally disclosed to bidders or potential bidders (column 11, lines 17-50).
8. The method according to claim 1, wherein potential bidders are notified through an electronic message of the availability of all new auctions or only those auctions matching a predetermined profile of contract service organization abilities or interests (figure 5 and associated text; column 22, lines 28-35).
9. The method according to claim 1, where potential bidders determine the availability of new auctions by viewing a web page showing all new auctions or only those auctions matching a predetermined profile of contract service organization abilities or interests (column 18, lines 1-35).
10. A computer site for a supplier of a good or service to bid on a client request for bids on said good or service, said site comprising at least one web computer server serving a plurality of computer browsers and enabling said browsers with to participate in at least one bidding cycle, wherein said at least one bidding cycle is initiated by a client requesting entry of bids by suppliers of a good or service, said web server communicating with a separate database computer separated from said web server by a firewall, said database computer being accessible to said at least one web computer server to allow retrieval of information relevant to said good or service open for bid, said web server computer including application software for bidding on said good

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or service open for bid by: (a) displaying to each said browser during a bidding cycle a parameter for said good or service up for bid; (b) displaying to each said browser a current bid for said good or service up for bid, and a measure of time remaining in said bidding cycle; (c) providing a user control for indicating instructions to enter a bid to provide said good or service open for bid; and (d) updating to each said browser said current bid and said measure of time remaining in said bidding cycle to provide dynamic feedback to each said browser (column 9, line 36-column 10, line 38).

11. The computer site according to claim 10 wherein said database computer is accessible to said at least one web computer server to allow retrieval of information relevant to said supplier of a good or service (figure 5 and associated text).

12. A system for an interactive electronic Exchange between a client desiring to acquire a good or service and a provider of said good or service, said Exchange providing information to said provider about said good or service desired by said client and further allowing said supplier to enter a bid for providing said good or service, said system comprising: (a) a host computer network including a database server that electronically stores and organizes data relevant to said good or service; (b) a display component for displaying information to a user, said display component connected to a wide area network for inputting data about a first good or service desired by a client, wherein said good or service has a first parameter associated therewith; and (c) a server connected to a wide area network for storing said first parameter column 19, lines 25-67; figure 5 and associated text).

Claims 13-19 are rejected as above. Due to the finality of the rejection under the same art, the examiner has not re-typed the amended and new claims from the amendment into the body of this rejection since they were addressed in the body of the response to the arguments.

*Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Bayat whose telephone number is 703-305-8548. The examiner can normally be reached on Tuesday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bbb



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